

(c) *Secretary agreement with mortgagor.* The mortgagor must enter into an agreement with the Secretary and such other parties as the Secretary may require regarding actions to be taken to obtain either a renewal of the lease or a new lease.

(d) *Certification.* The borrower must certify that it has received disclosures, in a form prescribed by the Secretary, explaining the status of the lease and the consequences of nonrenewal. The disclosure shall include a discussion of the fact that a mortgagor who does not obtain a lease renewal and loses the right of occupancy will remain liable for the outstanding balance of the mortgage.

(e) *Purchase for principal residence.* The mortgagor must be a purchaser who intends to occupy the property as a principal residence (as defined in § 203.18(f)(1)), or a current owner-occupant refinancing a mortgage which is now due or which will become due before the lease termination date in February 1991.

(f) *Relationship of income to housing expense.* For purposes of § 203.33(a), the total prospective housing expense shall include the Secretary's estimate of future lease payments during the term of the mortgage rather than lease payments in effect at the time of application.

(g) *Suspension of commitments.* The Secretary may suspend the issuance of commitments to insure mortgages under this section, for the entire period during which commitments could otherwise be issued for insurance under this section (i.e., through February 18, 1991) or for such lesser period as the Secretary may specify, by providing thirty days notice of suspension in the FEDERAL REGISTER. Regardless of its duration, a suspension to be imposed prior to February 19, 1990, will be based on a determination by the Secretary that, for mortgages insured during a specified period, the rate of monetary defaults (as measured by 90 day delinquencies) for mortgages insured under this section exceeds the rate of such monetary defaults for all insured mortgages on one- to four-family properties in the State of New York. A suspension to be imposed after February 18, 1990, will be based on a consideration by the

Secretary of the probable costs to the Special Risk Insurance Fund of further commitments to insure under this section, as measured by such factors as the current and projected rate and amount of claims payments, together with other significant current and projected costs as determined by the Secretary, including a review of the actual and projected monetary default rate (as measured by 90 day delinquencies) and the actual and projected rate of lease renewal through negotiation and arbitration.

[52 FR 48201, Dec. 21, 1987, and 53 FR 9869, Mar. 28, 1988, as amended at 54 FR 32970-32971, Aug. 11, 1989; 55 FR 34805, Aug. 24, 1990]

#### § 203.44 Eligibility of advances.

Mortgagees may not make open-end advances under section 225 of the National Housing Act (12 U.S.C. 1715p) in connection with the mortgages insured under this chapter.

[61 FR 36264, July 9, 1996]

#### § 203.45 Eligibility of graduated payment mortgages.

A mortgage containing provisions for varying rates of amortization corresponding to anticipated variations in family income shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section.

(a) The mortgage may provide that any interest which accrues and which is unpaid pursuant to a financing plan approved by the Secretary, shall be added to the principal obligation of the mortgage.

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor.

(c) The mortgage amount shall not exceed the lesser of:

(1) The limits prescribed by §§ 203.18, 203.18a, and 203.29; or,

(2) An amount which, when added to all accrued mortgage interest which will be unpaid under a financing plan approved by the Secretary, shall not exceed 97 percent of the appraised value of the property covered by the mortgage as of the date the mortgage is accepted for insurance. However, if